


**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-1313-DCL-E TCEQ ID: RN102918992 CASE NO.: 30795**  
**RESPONDENT NAME: NEW SM, INC. DBA DRY CLEAN SUPER CENTER**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input checked="" type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 836 Keller Parkway, Keller, Tarrant County</p> <p><b>TYPE OF OPERATION:</b> Dry cleaning facility</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on July 9, 2007. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="margin-left: 20px;"><b>TCEQ Attorney:</b> Mr. Gary K. Shiu, Litigation Division, MC R-12 (713) 422-8916 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Ms. Suzanne Walrath, Air Enforcement Section, MC 149, (512) 239-2134</p> <p style="margin-left: 20px;"><b>TCEQ Regional Contact:</b> Mr. Sam Barrett, DFW Regional Office, MC R-4, (817) 588-5903</p> <p style="margin-left: 20px;"><b>Respondent:</b> Mr. Abu M. Sharif, President, New SM, Inc., Keller Parkway, Keller, Texas 76248-2405</p> <p style="margin-left: 20px;"><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> May 22, 2006 and August 16, 2006</p> <p><b>Date of NOE Relating to this Case:</b> August 4, 2006</p> <p><b>Background Facts:</b></p> <p>The EDPRP was filed on December 19, 2006. After successful settlement negotiations, the Respondent signed the Agreed Order on March 15, 2007.</p> <p><b>DCL:</b></p> <p>1. Failed to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning and/or drop station facility [30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH &amp; SAFETY CODE § 374.102].</p> <p>2. Failed to pay Dry Cleaner registration fees for TCEQ Financial Administration Account No. 24003002 and associated late fees for fiscal year 2006 [30 TEX. ADMIN. CODE § 337.14(c) and TEX. WATER CODE § 5.702].</p>	<p><b>Total Assessed:</b> \$1,067</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$167/\$900</p> <p>The Respondent paid \$167 of the administrative penalty. The remaining amount of \$900 of the administrative penalty shall be paid in nine monthly payments of \$100 each.</p> <p><b>Site Compliance History Classification:</b> N/A</p> <p><b>Person Compliance History Classification:</b> N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures in response to this enforcement action:</p> <ol style="list-style-type: none"><li>1. Submitted a current registration for the Facility to the TCEQ on July 11, 2006.</li><li>2. Submitted payment for all outstanding fees, including any associated penalties and interest, on November 17, 2006.</li></ol>

	31-Jul-2006		PCW Revision May 19, 2005	
	Policy Revision 2 (September 2002)			
Assigned PCW	14-Aug-2006	Screening	16-Aug-2006	EPA Due

**RESPONDENT/FACILITY INFORMATION**

Respondent	New SM, Inc. dba Dry Clean Super Center		
Reg. Ent. Ref. No.	RN102918992		
Facility/Site Region	4 - Dallas/Fort Worth	Major/Minor Source	Minor Source

**CASE INFORMATION**

Enf./Case ID No.	30795	No. of Violations	2
Docket No.	2006-1313-DCL-E	Order Type	1660
Media Program(s)	Drycleaner	Enf. Coordinator	Suzanne Walrath
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$50

**Penalty Calculation Section**

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$1,185</b>
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**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$0</b>
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Notes	The respondent has not had any enforcement actions within the last five years.
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<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes	The respondent does not meet the culpability criteria.
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<b>Good Faith Effort to Comply</b>	10% Reduction	<b>Subtotal 5</b>	<b>-\$119</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with a small x)

Notes	The respondent achieved compliance on 11/17/06, after the Notice of Enforcement was issued.
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<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$11	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$250	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$1,067</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes	
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<b>Final Penalty Amount</b>	<b>\$1,067</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$1,067</b>
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<b>DEFERRAL</b>	0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral not offered as this case did not settle within the 60 day settlement period.
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<b>PAYABLE PENALTY</b>	<b>\$1,067</b>
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<b>Screening Date</b>	16-Aug-2006	<b>Docket No.</b>	2006-1313-DCL-E	<b>PCW</b>
<b>Respondent</b>	New SM, Inc. dba Dry Clean Super Center			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	30795			<i>PCW Revision May 19, 2005</i>
<b>Reg. Ent. Reference No.</b>	RN102918992			
<b>Media [Statute]</b>	Drycleaner			
<b>Enf. Coordinator</b>	Suzanne Walrath			

### Compliance History Worksheet

#### >> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	no	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	no	0%
	Participation in a voluntary pollution reduction program	no	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	no	0%

**Adjustment Percentage (Subtotal 2)** 0%

#### >> Repeat Violator (Subtotal 3)

No

**Adjustment Percentage (Subtotal 3)** 0%

#### >> Compliance History Person Classification (Subtotal 7)

N/A

**Adjustment Percentage (Subtotal 7)** 0%

#### >> Compliance History Summary

**Compliance History Notes**

The respondent has not had any enforcement actions within the last five years.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b>	16-Aug-2006	<b>Docket No.</b>	2006-1313-DCL-E	<b>PCW</b>
<b>Respondent</b>	New SM, Inc. dba Dry Clean Super Center	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	30795	<i>PCW Revision May 19, 2005</i>		
<b>Reg. Ent. Reference No.</b>	RN102918992			
<b>Media [Statute]</b>	Drycleaner			
<b>Enf. Coordinator</b>	Suzanne Walrath			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 337.11(e)			
<b>Secondary Rule Cite(s)</b>	Tex. Health and Safety Code § 374.102			
<b>Violation Description</b>	The respondent failed to renew the facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning and/or drop station facility.			
<b>Base Penalty</b>				\$50

**>> Environmental, Property and Human Health Matrix**

		<b>Harm</b>			
	<b>Release</b>	Major	Moderate	Minor	
<b>OR</b>	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input style="width: 50px;" type="text"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

**>> Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<b>Percent</b> <input style="width: 50px;" type="text" value="10%"/>

**Matrix Notes** 100% of the rule requirement was not met.

**Adjustment**

**Base Penalty Subtotal** \$5

**Violation Events**

Number of Violation Events

mark only one use a small x	daily	<input checked="" type="checkbox"/>	<b>Violation Base Penalty</b> <span style="float: right;">\$1,185</span>
	monthly	<input type="checkbox"/>	
	quarterly	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	

Two hundred thirty-seven daily events are recommended from the September 1, 2005 deadline to the April 26, 2006 deadline established by the TCEQ letter dated March 24, 2006.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> <input style="width: 50px;" type="text" value="\$11"/>	<b>Violation Final Penalty Total</b> <span style="float: right;">\$1,067</span>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <span style="float: right;">\$1,067</span>	

**Economic Benefit Worksheet**

Respondent New SM, Inc. dba Dry Clean Super Center  
 Case ID No. 30795  
 Reg. Ent. Reference No. RN102918992  
 Media [Statute] Drycleaner  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$250	01-Sep-2005	12-Jul-2006	0.9	\$11	n/a	\$11
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to register a dry cleaning or drop station facility annually. The date required is the date that the completed registration form was due and the final date is the date the respondent obtained its registration.

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$250

TOTAL \$11

<b>Screening Date</b> 16-Aug-2006	<b>Docket No.</b> 2006-1313-DCL-E	<b>PCW</b>		
<b>Respondent</b> New SM, Inc. dba Dry Clean Super Center	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 30795	<i>PCW Revision May 19, 2005</i>			
<b>Reg. Ent. Reference No.</b> RN102918992				
<b>Media [Statute]</b> Drycleaner				
<b>Enf. Coordinator</b> Suzanne Walrath				
<b>Violation Number</b> 2				
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 337.14(c)			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 5.702			
<b>Violation Description</b>	The respondent failed to pay Dry Cleaner registration fees for TCEQ Financial Administration Account No. 24003002 and associated late fees for fiscal year 2006.			
<b>Base Penalty</b>		\$50		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>		<input type="text"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>		<input type="text"/>
<b>Matrix Notes</b>		<input type="text"/>		
<b>Adjustment</b>		-\$50		
<b>Base Penalty Subtotal</b>		\$0		
<b>Violation Events</b>				
<b>Number of Violation Events</b>		<input type="text"/>		
mark only one use a small x	daily	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
<b>Violation Base Penalty</b>		\$0		
No penalty is recommended because penalty and interest will be assessed at the next billing.				
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b> \$0		<b>Violation Final Penalty Total</b> \$0		
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$0		

**Economic Benefit Worksheet**

Respondent: New SM, Inc. dba Dry Clean Super Center  
 Case ID No. 30795  
 Reg. Ent. Reference No. RN102918992  
 Media [Statute] Drycleaner  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description:	No commas or \$						

**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

N/A

**Avoided Costs**

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance \$0

TOTAL \$0

# Compliance History

Customer/Respondent/Owner-Operator:	CN602776452	New SM, Inc.	Classification:	Rating: 3.01
Regulated Entity:	RN102918992	DRY CLEAN SUPER CENTER	Classification:	Site Rating: 3.01
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000020362	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	85947	
	DRY CLEANERS REGISTRATION	INTERNAL	102918992	
Location:	836 KELLER PKWY, KELLER, TX, 76248		Rating Date: September 01 05 Repeat Violator: NO	
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	August 15, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 24, 2001 to August 24, 2006			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Suzanne Walrath		Phone:	512/239-2134

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? New SM, Inc.
4. If Yes, who was/were the prior owner(s)? Wilcon Enterprises, Inc.
5. When did the change(s) in ownership occur? 1/1/2005

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
  - B. Any criminal convictions of the state of Texas and the federal government.  
N/A
  - C. Chronic excessive emissions events.  
N/A
  - D. The approval dates of investigations. (CCEDS Inv. Track. No.)  
1 08/07/2006 (487245)
  - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
  - F. Environmental audits.  
N/A
  - G. Type of environmental management systems (EMSs).  
N/A
  - H. Voluntary on-site compliance assessment dates.  
N/A
  - I. Participation in a voluntary pollution reduction program.  
N/A
  - J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
NEW SM, INC. DBA DRY CLEAN  
SUPER CENTER, RN102918992**

**§  
§  
§  
§  
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§**

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2006-1313-DCL-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding New SM, Inc. dba Dry Clean Super Center ("New SM") under the authority of TEX. WATER CODE chs. 5 and 7 and TEX. HEALTH & SAFETY CODE ch. 374. The Executive Director of the TCEQ, represented by the Litigation Division, and New SM, appear before the Commission and together stipulate that:

1. New SM owns, in accordance with TEX. HEALTH & SAFETY CODE § 374.001(12), and operates a dry cleaning facility located at 836 Keller Parkway in Keller, Tarrant County, Texas (the "Facility")
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 5, TEX. HEALTH & SAFETY CODE ch. 374 and TCEQ rules.
3. The Commission and New SM agree that the Commission has jurisdiction to enter this Agreed Order, and that New SM is subject to the Commission's jurisdiction.
4. New SM received notice of the violations alleged in Section II ("Allegations") on or about August 9, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by New SM of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of one thousand sixty-seven dollars (\$1,067.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). New SM has paid one hundred sixty-seven dollars (\$167.00) of the administrative penalty. The remaining amount of nine hundred dollars (\$900.00) shall be payable in nine monthly payments of one hundred dollars (\$100.00) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If New SM fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of New SM to meet the payment schedule of this Agreed Order constitutes the failure by New SM to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and New SM have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that New SM has implemented the following corrective measures in response to this enforcement action:
  - a. New SM submitted a current registration for the Facility to the TCEQ on July 11, 2006.
  - b. New SM submitted payment for all outstanding fees, including any associated penalties and interest, on November 17, 2006.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that New SM has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

New SM is alleged to have violated:

1. 30 TEX. ADMIN. CODE § 337.11(e) and TEX. HEALTH & SAFETY CODE § 374.102 by failing to renew the Facility's registration by completing and submitting the required registration form to the TCEQ for a dry cleaning and/or drop station facility as documented during an inspection conducted on May 22, 2006.
2. 30 TEX. ADMIN. CODE § 337.14(c) and TEX. WATER CODE § 5.702 by failing to pay Dry Cleaner registration fees for TCEQ Financial Administration Account No. 24003002 and associated late fees for fiscal year 2006 as documented during a record review conducted on August 16, 2006.

## **III. DENIALS**

New SM generally denies each allegation in Section II ("Allegations").

## **IV. ORDER**

1. It is, therefore, ordered by the TCEQ that New SM pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and New SM's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: New SM, Inc. dba Dry Clean Super Center, Docket No. 2006-1313-DCL-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon New SM. New SM is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against New SM in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to New SM, or three days after the date on which the Commission mails notice of the Order to New SM, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission



\_\_\_\_\_  
For the Executive Director

6/20/07

\_\_\_\_\_  
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on New SM's compliance history;
- Greater scrutiny of any permit applications submitted by New SM;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against New SM;
- Automatic referral to the Attorney General's Office of any future enforcement actions against New SM; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

Mohammad Abu Sharaf

\_\_\_\_\_  
Name (Printed or typed)

\_\_\_\_\_  
Authorized representative of

\_\_\_\_\_  
New SM, Inc. dba Dry Clean Super Center

3/15/07

\_\_\_\_\_  
Date

President

\_\_\_\_\_  
Title